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From:

Sent: Thursday, July 12, 2012 10:23:49 AM

To:

Cc:

Subject: RE: Rescinding a SNOD issued to victim of ID theft

The rescission of a statutory notice of deficiency requires the consent of both the Service and the taxpayer to whom the Service issued the notice. I.R.C. § 6212(d). If the Service cannot locate the taxpayer to whom the Service issued the notice, then rescission would not be an option. No statute or other legal authority gives the Service the ability to unilaterally abandon or withdraw a notice of deficiency. See *Nichols v. Commissioner*, T.C. Memo. 2002-269. Regardless, the Service has the legal authority to make necessary adjustments to an identity theft victim's account prior to the expiration of the period to petition the Tax Court under section 6213(a). Such adjustments can include the abatement of any assessments on the victim's account that were based on the identity theft return. [REDACTED]

Let me know if you have any questions.

The only exception would be if a necessary adjustment requires an additional assessment on the victim's account. While a taxpayer may, by a signed notice in writing, waive section 6213(a)'s restriction on assessment at any time, if the Service cannot locate the taxpayer, then the Service cannot rely on the taxpayer's waiver of section 6213's restrictions to make an assessment.